

## **ARTICLE 13. ASSIGNMENT**

### **13.1 Assignment by Lessee.**

(a) Lessee shall not sublet or assign its interests in this Lease without the consent of Lessor, which consent shall not be unreasonably withheld, except that no consent shall be required if the requirements of Sections 13.1(b)(i), (ii) and (iii) are met. The occurrence of an event (other than the death of one or more individuals and the transfer of any equity interest in Lessee as a result thereof to any one or more parents, siblings, spouse or lineal descendants of such individual, or any spouse of any of the foregoing, or a trust or trusts in which one or more such persons are the primary beneficiaries) that results in Lessee's not being an Affiliate of the NFL Team Entity (or a successor NFL Team Entity) shall require the prior consent of Lessor, which consent shall not be unreasonably withheld.

(b) No subletting described in Section 13.1(a) shall relieve Lessee from any of its liabilities and obligations under this Lease. Except as provided in the immediately succeeding sentence, no assignment described in Section 13.1(a) shall relieve Lessee from any of its liabilities and obligations under this Lease. Lessee shall be relieved from all liabilities and obligations under this Lease if (i) such assignment is made in connection with the sale or transfer by the NFL Team Entity (with the approval of the NFL) of the Team and the NFL franchise therefor to the assignee of Lessee or to a Person that is an Affiliate of such assignee of Lessee (with the assignee of the NFL Team Entity thus being the successor NFL Team Entity), (ii) Lessee's assignee assumes all the obligations of Lessee under this Lease, and the successor NFL Team Entity assumes all of the obligations of the NFL Team Entity under the Team Contract, the Development Agreement and the Guaranty (iii) the successor NFL Team Entity assumes responsibility for such assignee's obligations under this Lease in the same manner that the NFL Team Entity has assumed responsibility for Lessee's obligations under this Lease pursuant to the Guaranty (unless the successor NFL Team Entity and Lessee's assignee are the same Person and thus the successor NFL Team Entity has already assumed such responsibility pursuant to clause (ii)) and (iv) Lessor shall be satisfied (acting reasonably) that such successor NFL Team Entity has a net worth that would be sufficient to enable the successor NFL Team Entity to perform the obligations referred to in clauses (ii) and (iii).

(c) Nothing in this Section 13.1 shall prohibit or restrict in any manner Lessee from exercising the rights granted to Lessee in Section 3.5.

**13.2 Assignment by Lessor.** Lessor shall not, without the prior consent of Lessee, assign any of its rights in, or delegate any of its duties under, this Lease; provided that Lessee shall consent to any assignment by Lessor or delegation arising by reason of a reorganization of responsibilities as among Lessor, the Governments, and other public or quasi-public entities so long as (a) the obligations of Lessor under this Lease are assumed by one or more assignees or delegees, each of which is a public or quasi-public entity that, in the reasonable judgment of Lessee, is at least as financially responsible as Lessor, and (b) in the reasonable judgment of Lessee, such reorganization would not impair the realization by Lessee

or the NFL Team Entity of the expected benefits from the rights granted to either of them under this Lease, the Development Agreement or the Team Contract.

## ARTICLE 14. INSURANCE

**14.1 Insurance of Lessor.** During the Operating Period, and thereafter for the remainder of the Term, Lessor, at its sole cost and expense, shall keep and maintain, or cause to be kept or maintained by the Metropolitan Government (or cause a sponsor of any Lessor Event to maintain the "non-Lessor" coverages in Sections 14.1(d)(i) and 14.1(e)(i)), in full force and effect a policy or policies containing the following types of coverages, deductibles, limits and other terms (each, a "*Lessor Policy*"):

(a) Comprehensive casualty and property insurance against any and all loss or damage to the Facilities (other than Distinct Lessee Voluntary Improvements and coverage for the contents of any Lessee Voluntary Improvement in the Stadium) for the full replacement value thereof on an "all risk" peril basis (other than earthquakes and floods), including coverage against fire, extended coverage, vandalism, malicious mischief and special extended perils as contained in customary "all risk" policies;

(b) Comprehensive casualty and property insurance against any and all loss or damage to the Facilities (other than Distinct Lessee Voluntary Improvements and coverage for the contents of any Lessee Voluntary Improvement in the Stadium) caused by earthquake or flood in an amount not less than \$25,000,000;

(c) Commercial general liability insurance (on an "occurrence" basis form) for any third-party liability arising in connection with any Lessor Event or the use of the Lessor Parking Area (other than use for Lessee Events) (the "*Lessor Parking Use*") with a single combined minimum limit coverage of not less than \$1,000,000 per occurrence;

(d) (i) Non-Lessor - worker's compensation insurance (with respect to both Lessor Events and the Lessor Parking Use) - in accordance with Applicable Law and (ii) Lessor - the employee benefit plan provided by Applicable Law in lieu of worker's compensation coverage;

(e) (i) Non-Lessor Employer's liability insurance (with respect to both Lessor Events and the Lessor Parking Use):

bodily injury by accident - not less than \$1,000,000 each accident

bodily injury by disease - not less than \$1,000,000 for each employee

bodily injury by disease - not less than \$1,000,000 policy limit;  
and

(ii) Lessor - Lessor's employee liability program provided pursuant to Applicable Law.

(f) Automobile liability insurance (with respect to both Lessor Events and the Lessor Parking Use) - not less than \$1,000,000 combined single limit each accident; and

(g) Umbrella liability insurance - not less than \$24,000,000 combined single limit each occurrence in excess of each of the coverages described in clauses (c), (e) and (f) of this Section 14.1.

If any Lessor Policy containing the coverage and other terms set forth herein is not available on a reasonable basis, Lessor shall in lieu thereof keep and maintain in full force and effect such policy as is then available on a reasonable basis that most nearly approximates the terms described herein. Other than the Metropolitan Government's self-insurance program described in and maintained and administered in accordance with Section 5.2 of the Development Agreement, Lessor shall not obtain or maintain, and shall cause the Metropolitan Government not to obtain or maintain, separate insurance coverage specifically related to the Facilities that is concurrent in form, or contributing in the form of loss, to the coverage required by this Lease unless both of the Team Parties are named in such concurrent or other coverage as additional insureds and loss payees in the same manner as required by this Lease with respect to the Lessor Policies. Lessor shall, and shall cause the Metropolitan Government to, promptly notify each of the Team Parties whenever any such separate insurance coverage is obtained and shall deliver to each of the Team Parties such certificates of insurance and other documentation (other than blanket policies) reasonably required by the Team Parties to ensure compliance with the requirements set forth in the immediately preceding sentence.

**14.2 Insurance of Lessee.** During the Operating Period, and thereafter for the remainder of the Term, Lessee, at its sole cost and expense, shall keep and maintain in full force and effect a policy or policies containing the following types of coverages, deductibles, limits and other terms (each, a "*Lessee Policy*"):

(a) Commercial general liability insurance (on an "occurrence" basis form) for any third-party liability arising in connection with the Facilities (other than with respect to any Lessor Event or the Lessor Parking Use) with a single combined minimum limit of not less than \$1,000,000 per occurrence;

(b) Workers' compensation insurance - in accordance with Applicable Law;

(c) Employer's liability insurance:

bodily injury by accident-not less than \$1,000,000 each accident  
bodily injury by disease-not less than \$1,000,000 each employee  
bodily injury by disease-not less than \$1,000,000 policy limit;

(d) Automobile liability insurance - not less than \$1,000,000 combined single limit each accident; and

(e) Umbrella liability insurance - not less than \$24,000,000 combined single limit each occurrence in excess of each of the coverages described in clauses (a), (c) and (d) of this Section 14.2.

If any Lessee Policy containing the coverage and other terms set forth herein is not available on a reasonable basis, Lessee shall in lieu thereof keep and maintain in full force and effect such policy as is then available on a reasonable basis that most nearly approximates the terms described herein. Other than the supplemental coverage Lessee may request Lessor to obtain at Lessee's expense pursuant to Section 14.6, Lessee shall not obtain or maintain separate insurance coverage specifically related to the Facilities that is concurrent in form, or contributing in form of loss, to the coverage Lessee is required to maintain pursuant to Section 14.2(a), (c), (d) or (e) unless Lessor is named in such concurrent or other coverage as an additional insured in the same manner as required by this Lease. Lessee shall promptly notify Lessor whenever any such separate insurance coverage is obtained and shall deliver to Lessor such certificates of insurance and other documentation (other than blanket policies) reasonably required by Lessor to ensure compliance with the requirements set forth in the immediately preceding sentence.

#### **14.3 Requirements of Lessor Policies.**

(a) Each Lessor Policy shall be with companies that are nationally recognized and, if underwriting primary coverage, that have a policyholder's rating of at least A, X, as listed at the time of issuance by *A. M. Best Insurance Reports*, or such other rating as Lessor and Lessee may mutually agree, and are qualified to issue such insurance in the State.

(b) Each Lessor Policy shall provide that it may not be canceled, terminated, reduced or materially changed unless at least 30 days' advance notice thereof has been provided to Lessee, except in the case of cancellation or termination due to a lapse for nonpayment, in which case only ten days' advance notice shall be required.

(c) Each Lessor Policy shall include waivers of (i) all rights of subrogation against the Team Parties and (ii) any recourse against the Team Parties for payment of any premiums or assessments under such policy.

(d) Each Lessor Policy covering third-party liability shall contain a "cross-liability" endorsement or a "severability of interests" endorsement providing that coverage, to the maximum amount of the policy, shall be available despite any suit between the insured and any additional insured under such policy.

(e) The Lessor Policies shall not in the aggregate have deductibles in excess of those permitted by the terms of the Development Agreement.

(f) Each Lessor Policy shall provide that it may not be invalidated by any act, omission or negligence of the Team Parties; provided that the commercial general liability insurance coverage may contain customary provisions excluding from its coverage loss or injury arising from acts of Lessee intended to result in such loss or injury.

(g) Each Lessor Policy maintained in accordance with Section 14.1(a) and 14.1(b) shall name Lessee as a loss payee. Each Lessor Policy obtained in accordance with Sections 14.1(c), (e), (f) and (g) shall name the Team Parties as additional insureds, as their interests may appear.

(h) Each Lessor Policy providing liability coverage shall contain an endorsement specifying this Lease, the Development Agreement and the Team Contract as "insured contracts."

(i) Lessor shall deliver, or cause to be delivered, to Lessee certificates of insurance and any other documentation reasonably required by Lessee evidencing the existence of the Lessor Policies, such delivery to be made at least three business days prior to the Substantial Completion Date. Within 21 days after the issuance of any additional policies or amendments or supplements to any of the Lessor Policies, Lessor shall deliver to Lessee revised certificates of insurance reflecting any such addition, amendment or supplement. With respect to any Lessor Policy that expires by its terms prior to the expiration of the Term, Lessor shall deliver to Lessee certificates of insurance and any other documentation reasonably required by Lessee evidencing the existence of the renewal or replacement of such Lessor Policy, such delivery to be made at least three business days prior to the expiration of such Lessor Policy; provided that Lessor may instead deliver a facsimile of the binder of insurance, such facsimile delivery to be made on or prior to the expiration of such insurance policy, and within ten days after the expiration of such insurance policy, the actual certificate of insurance and any other required documentation shall be furnished to Lessee.

#### **14.4 Requirements of Lessee Policies.**

(a) Each Lessee Policy shall be with companies that are nationally recognized and, if underwriting primary coverage, that have a policyholder's rating of at least A, X, as listed at the time of issuance by *A. M. Best Insurance Reports*, or such other rating as Lessor and Lessee may mutually agree, and are qualified to issue such insurance in the State.

(b) Each Lessee Policy shall provide that it may not be canceled, terminated, reduced or materially changed unless at least 30 days' advance notice thereof has been provided to Lessor, except in the case of cancellation or termination due to a lapse for non-payment, in which case only ten days' advance notice shall be required.

(c) Each Lessee Policy shall include waivers of (i) all rights of subrogation against Lessor and (ii) any recourse against Lessor for payment of any premiums or assessments under such policy.

(d) Each Lessee Policy covering third-party liability shall contain a "cross-liability" endorsement or a "severability of interests" endorsement providing that coverage, to the maximum amount of the policy, shall be available despite any suit between the insured and any additional insured under such policy.

(e) Each Lessee Policy obtained in accordance with Sections 14.2(a), (c), (d) and (e) shall name Lessor as an additional insured, as its interests may appear.

(f) Each Lessee Policy containing liability coverage shall contain an endorsement specifying this Lease, the Development Agreement and the Team Contract as "insured contracts."

(g) Lessee shall deliver, or cause to be delivered, to Lessor certificates of insurance and any other documentation reasonably required by Lessor evidencing the existence of the Lessee Policies, such delivery to be made at least three business days prior to the Substantial Completion Date. Within 21 days after the issuance of any additional policies or amendments or supplements to any of the Lessee Policies, Lessee shall deliver to Lessor revised certificates of insurance reflecting any such addition, amendment or supplement. With respect to any Lessee Policy that expires by its terms prior to the expiration of the Term, Lessee shall deliver to Lessor certificates of insurance and any other documentation reasonably required by Lessor evidencing the existence of the renewal or replacement of such Lessee Policy, such delivery to be made at least three business days prior to the expiration of such Lessee Policy; provided that Lessee may instead deliver a facsimile of the binder of insurance, such facsimile delivery to be made on or prior to the expiration of such insurance policy, and within ten days after the expiration of such insurance policy, the actual certificate of insurance and any other required documentation shall be furnished to Lessor.

**14.5 Exercise of Certain Remedies.** Lessor and Lessee agree that significant costs will be incurred by each of them to maintain the insurance coverages required by this Lease. Accordingly, each of Lessor and Lessee agrees to pursue all available recoveries under such policies with respect to any loss covered thereby before asserting any claim or otherwise pursuing any remedy with respect to such loss against the other party hereto or their respective Affiliates.

**14.6 Additional Coverage.**

(a) In addition to the policies required to be maintained by Lessor in accordance with the other provisions of this Lease, if from time to time requested by Lessee, if commercially available and if permitted by Applicable Law, Lessor shall also keep and maintain, at Lessee's sole cost, business interruption insurance and such additional commercial liability insurance covering such risks and on such terms as so requested by Lessee. Each such requested commercial liability policy shall name the Team Parties and their respective Affiliates as additional insureds. Each such requested business interruption policy shall name Lessee as the sole loss payee. Lessee shall promptly reimburse Lessor for its out-of-pocket incremental premiums and costs paid by Lessor in procuring insurance requested pursuant to this Section 14.6(a).

(b) In addition to the rights granted in Section 14.6(a), Lessor and Lessee shall meet from time to time (but no less frequently than once every five years) to review the adequacy of the dollar limits and other terms set forth in the Lessor Policies and the Lessee Policies, and the dollar limits and other terms shall be adjusted as mutually agreed upon by the

parties to take into account changes, if any, in circumstances and other relevant factors (including, without limitation, inflation, claims history, changes in law and insurance markets) since the policies' dollar limits and other terms were initially established or last adjusted, as applicable.

**14.7 Primary Coverage.** Without limiting the provisions set forth in the paragraph immediately following Section 14.1(g), Lessor and Lessee agree, and will cause the Lessor Policies and the Lessee Policies to provide, that (a) the Lessor Policies described in Sections 14.1(a) and 14.1(b) shall provide primary coverage at all times during the Operating Period, (b) the Lessor Policies described in Sections 14.1(c), (d), (e), (f) and (g) shall provide primary coverage for third party liability in connection with Lessor Events and the Lessor Parking Use and (c) the Lessee Policies shall provide primary coverage for third-party liability in connection with the Facility other than with respect to the Lessor Events and the Lessor Parking Use. None of the Lessee Policies shall contain a provision relieving the insurer of liability for any loss by reason of the existence of other policies of insurance covering the Facilities, or any part thereof, against the peril involved, whether collectible or not, if such other policies do not name Lessor as an additional insured, with loss payable as its interests may appear. None of the Lessor Policies shall contain a provision relieving the insurer of liability for any loss by reason of the existence of other policies of insurance covering the Facilities, or any part thereof, against the peril involved, whether collectible or not, if such other policies do not name the Team Parties as additional insureds and loss payees, with loss payable as their interests may appear.

## **ARTICLE 15.**

### **SURRENDER OF FACILITIES**

**15.1 General.** Upon the expiration or termination of this Lease, Lessee shall peaceably deliver up and surrender the Facilities to Lessor in First Class Condition; provided, however, that nothing contained in this Section 15.1 shall be construed as an obligation by Lessee to repair or improve the Facilities prior to such surrender except to the extent that such obligations are specifically imposed upon Lessee by other provisions of this Lease.

**15.2 Alterations and Improvements.** At the termination of this Lease, all permanent alterations, installations, changes, replacements, additions or improvements that (a) have been made by Lessee to the Facilities and (b) cannot be removed without material damage (other than damage to be repaired by Lessee as contemplated by Section 15.3) to the remainder of the Facilities, shall be deemed a part of the Facilities and the same shall not be removed.

**15.3 Lessee's Property.** Upon the termination of this Lease, Lessee may remove all property owned by Lessee and shall repair any damage caused to the Facilities due to the removal of such property at Lessee's expense. If Lessee fails to remove such property within three months after such termination, such property shall be deemed abandoned. Lessor may, at its option, (a) cause any such abandoned property to be removed at no expense to Lessee, (b) sell all or any part of such property at public or private sale, without notice to Lessee, and/or (c) declare that title to such property shall be deemed to have passed to Lessor.

**15.4 Release Documents.** Upon the termination of this Lease and performance of all obligations required of Lessor, Lessee shall immediately upon the request and at the expense of Lessor, deliver a release of any instruments of record evidencing this Lease, a quitclaim deed to Lessor of the Stadium Site and, subject to Section 15.3, a quitclaim bill of sale to Lessor of all equipment comprising a portion of the Facilities.

## **ARTICLE 16. MISCELLANEOUS**

**16.1 Notices.** All notices, consents, approvals, and other communications given to either party under this Lease shall be in writing to such party at the address set forth below or at such other address as such party shall designate by notice to the other party hereto in accordance with this Section 16.1 and may be delivered personally (including delivery by private courier services, including overnight courier delivery) or by telecopy (with a copy of such notice sent by private courier service for overnight delivery or by registered or certified mail), or by first-class United States mail, postage prepaid, registered or certified mail with return receipt requested, to the party entitled thereto, and shall be deemed to be duly given or made when received:

If to Lessor, addressed to:

The Sports Authority of The Metropolitan  
Government of Nashville and Davidson County  
106 Metropolitan Courthouse  
Nashville, TN 37201  
Attention: Chair  
Telecopy No.: (615) 862-6156

With copy to:

Director of Law of the Metropolitan Government  
204 Metropolitan Courthouse  
Nashville, TN 37201  
Telecopy No.: (615) 862-6352

If to Lessee, addressed to:

Cumberland Stadium, L.P.  
414 Union Street, 10th Floor  
Nashville, TN 37289  
Attention: Michael D. McClure  
Telecopy No.: (615) 880-1035



With a copy to:

Steve Underwood  
Houston Oilers, Inc.  
4400 Post Oak Parkway  
5 Post Oak Park  
Suite 2800  
Houston, TX 77027  
Telecopy No.: (713) 881-3471

**16.2 Choice of Law.** This Lease shall be construed and interpreted and the rights of the parties determined in accordance with the internal laws of the State.

**16.3 Entire Agreement; Amendments and Waivers.** This Lease and the Development Agreement, the Team Contract and the Guaranty constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior agreements (including the Stadium and Relocation Agreement, dated November 15, 1995, between the Metropolitan Government and Houston Oilers, Inc.), understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof except as set forth specifically herein and in the Development Agreement, the Team Contract and the Guaranty. No amendment, supplement, modification or waiver of this Lease shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Lease shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless expressly agreed to in writing by the affected party.

**16.4 References.** Any reference herein to an Article or Section shall be deemed to refer to the applicable Article or Section of this Lease unless otherwise expressly stated herein. Any reference to an Annex shall be deemed to refer to the applicable Annex attached hereto, all such Annexes being incorporated herein and made a part hereof by this reference.

**16.5 No Third Party Beneficiaries.** This Lease is solely for the benefit of the parties hereto, and their successors and assigns permitted under this Lease, and no provisions of this Lease shall be deemed to confer upon any other Person any remedy, claim, liability, reimbursement, cause of action or other right.

**16.6 No Merger.** The terms and provisions of this Lease (including, without limitation, the representations, warranties and covenants) shall not merge, be extinguished or otherwise affected by the delivery and execution of any document delivered pursuant to this Lease unless such document shall specifically so state and shall be signed by both Lessor and Lessee.

**16.7 Recordation of Lease.** Lessor shall record a memorandum of this Lease in the form of Annex III in the appropriate real property records of Davidson County, Tennessee promptly following Substantial Completion.

**16.8 Only Lessor-Lessee Relationship.** Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third Person to create the relationship of principal and agent, partnership, joint venture or any association between Lessor and Lessee, it being expressly understood and agreed that neither the method of computation of Rent nor any act of the parties hereto shall be deemed to create any relationship between Lessor and Lessee other than the relationship of lessor and lessee. It is agreed that all Persons provided by Lessee to perform the obligations of Lessee contemplated hereby are not employees or agents of Lessor. Lessee acknowledges that Lessee's employees and agents shall not, by reason of this Lease or by reason of the performance of any services in connection with the satisfaction of Lessee's obligations hereunder, be considered employees of, or entitled to any employee benefits of, Lessor or the Metropolitan Government.

**16.9 Applicable Standard.** Any approval, consent, decision or election to be made or given by a party hereunder may be made or given in such party's sole judgment and discretion, unless a different standard (such as reasonableness) is provided for explicitly.

**16.10 Multiple Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**16.11 Interest.** Any payment not made on the date required by this Lease shall accrue interest at the Default Rate from the due date of such payment until the date such payment is paid.

**16.12 Non-Binding Mediation.** In the event of (a) a dispute between the parties arising out of or relating to this Lease or (b) an alleged breach by a party of its obligations hereunder, any party may with five days' notice initiate non-binding mediation to attempt to resolve the dispute or alleged breach. Any such mediation shall be conducted (i) by a single mediator selected jointly by agreement of the parties or (ii) if the parties are unable to agree upon a mediator within five days of the receipt of notice initiating mediation, by an impartial mediator selected by any Chancellor of any Chancery Court of Davidson County, Tennessee (acting in his or her individual capacity and not officially) so long as such mediator is licensed by the Supreme Court of Tennessee to practice law, is actively engaged in the practice of law and maintains law offices in Davidson County. The mediation shall take place in Davidson County within 30 days of the date of receipt of the notice initiating mediation, and each party will bear its own expenses and attorneys' fees and an equal share of the fees and expenses of the mediator. In the absence of Applicable Law regulating or administering non-binding mediation, the mediator, acting reasonably and in accordance with the scope of this Section 16.12, shall establish the dates, times, places and general conduct of the mediation sessions. All discussions, negotiations and written materials produced for or made during any such mediation, including, without limitation, the statements, positions and offers of any parties, their attorneys, other participants and the mediator, shall be considered for all purposes and at all times to be compromises, offers to compromise and attempts to compromise pursuant to Rule 408, Tennessee Rules of Evidence. No party shall be compelled to participate in any meeting or meetings with the mediator pursuant to this Section 16.12 for more than two days, or at any time more than 30 days after the receipt of notice initiating such mediation. Nothing contained herein shall toll any applicable notice, cure, or

termination provision of this Lease. If any dispute or alleged breach is not resolved by such mediation, the parties may resort to any remedies permitted by Applicable Law, and nothing contained herein shall be construed to preclude any party from seeking and obtaining injunctive or other emergency relief to protect its rights pending mediation. No request for injunctive or other emergency relief shall be deemed a waiver of mediation hereunder.

**16.13 Interpretation.** Each of the parties has agreed to the use of the particular language of the provisions of this Lease, and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the draftsman, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

**16.14 Offset Limitations.** Prior to the incurrence of any Public Debt, Lessor shall notify Lessee of all material terms thereof (including the collateral to be provided therefor), shall furnish Lessee with copies of all material documents and agreements with respect to such debt and shall indicate whether the terms of such debt would conflict with the provisions of this Lease granting offset rights to Lessee or providing abatement or reduction of the Rent. Notwithstanding any provision to the contrary in this Lease permitting Lessee to offset amounts against the Rent or providing for the abatement or reduction of Rent (collectively, the "*Offset Provisions*"), if the terms of any Public Debt (with respect to which Lessee has received the information and documents required pursuant to the preceding sentence) would conflict with the Offset Provisions, then the Offset Provisions shall not apply at any time same would conflict with the terms of the Public Debt. Upon the payment by Lessee of any Rent that would have been offset, abated or reduced but for the application of this Section 16.14, Lessor shall reimburse Lessee for an equivalent amount immediately after such Rent is paid by Lessee.

**16.15 Additional Assurances.** From time to time after the date of this Lease, without further consideration and subject to the other terms of this Lease, the parties shall promptly execute and deliver such other instruments and take such other action as any other party reasonably may request to consummate the transactions contemplated hereby.

**16.16 Repayment of Reimbursement Fees; Indemnification.**

(a) Notwithstanding any other provision of this Lease, the Development Agreement or any other document or agreement, and notwithstanding any course of performance, course of dealing, breach of contract, tort claim or any other matter whatsoever that may at any time exist between or involve the parties hereto, Lessee shall, without demand, repay to Lessor in immediately available funds the amount, if any, paid under Section 9.3(a) of the Development Agreement (i) within 30 days after Lessor's delivery or receipt of a termination notice given pursuant to Section 5.5(a), or (ii) immediately following Lessor's delivery or receipt of a termination notice given pursuant to Section 5.5(b). This repayment shall be made in exactly the amount theretofore paid or advanced pursuant to Section 9.3(a) of the Development Agreement and not theretofore repaid to the Sports Authority pursuant to this Lease, the Development Agreement or otherwise, together with interest thereon beginning after the end of such 30 day period (or beginning on the day after Lessee's delivery or receipt of a termination notice given

pursuant to Section 5.5(b)) at the lesser of the highest lawful rate and the rate of 18% per annum, and together with any costs of collection as provided below in this Section 16.16(a) (collectively the "**Obligations**"), without claim of setoff, counterclaim, recoupment, defense, deduction, deferment or reduction of any character whatsoever. The intent of Lessee and Lessor and the essence of this Section 16.16(a) is that the obligation of Lessee to repay the Obligations is absolute, unconditional and independent of all other terms, conditions and provisions of this Lease and the Development Agreement and of all other matters whatsoever, and that the remedy of Lessee for any actionable conduct on the part of Lessee or the Metropolitan Government, whether arising under contract, tort or otherwise, shall be available to Lessee as a separate action but shall not be permitted as a setoff, counterclaim, recoupment, defense, deduction, deferment or reduction with respect to payment of the Obligations. Lessee hereby warrants to Lessor that the performance of this Section 16.16(a) will not violate any credit agreement, lease or other material document to which it is a party or by which its properties may be bound. Lessee hereby agrees to pay all costs of collection that Lessor may incur in enforcing its rights under this Section 16.16(a), including, but not limited to, court costs and the reasonable fees and expenses of Lessor's attorneys. Lessor and Lessee hereby (I) irrevocably consent to the jurisdiction of the United States District Court for the Middle District of Tennessee and of all Tennessee state courts sitting in Davidson County, Tennessee, for the purpose of any litigation arising from the Obligations, and (II) irrevocably agree that venue for any such litigation shall lie exclusively with courts sitting in Davidson County, Tennessee. For purposes of this Section 16.16(a), Lessee shall be deemed to have given or received a notice of termination pursuant to Section 5.5(b) on (A) the actual date of Lessee's delivery or receipt thereof if such delivery or receipt date is a business day and Lessee delivers or receives such notice prior to 11:00 a.m. (Nashville, Tennessee time) on such date, (B) on the first business day following the actual date of Lessee's delivery or receipt thereof if such delivery or receipt date is not a business day or if Lessee delivers or receives such notice at or after 11:00 a.m. (Nashville, Tennessee time) on such date, or (C) on May 17, 1996, if Lessee delivers or receives a termination notice pursuant to Section 5.5(b) before 2:00 p.m. on May 17, 1996.

(b) Lessee agrees to indemnify and hold harmless Lessor, each member of the Board of Directors of Lessor and each officer, employee, agent, consultant and attorney of Lessor (collectively, the "**Indemnified Parties**") from and against any and all Damages that any such Indemnified Party incurs or suffers as a result of, or with respect to, any breach by Lessee of its agreement under Section 16.16(a), including any Damages that any Indemnified Party incurs or suffers as a result of Claims relating to or arising out of any such breach. The obligations and liabilities of Lessee under this Section 16.16(b) with respect to Claims resulting from the assertion of liability by third parties shall be subject to the following terms and conditions:

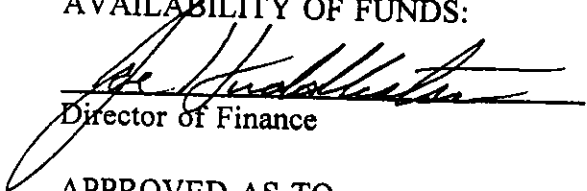
(i) Within 15 days after receipt of notice of commencement or the assertion of any Claim by a third party, any Indemnified Party claiming a right to indemnification under this Section 16.16(b) shall give Lessee notice thereof together with a copy of any then existing demand, process or other legal pleading; provided, however, that a failure to so notify Lessee within such 15 day period shall not affect the Indemnified Party's rights hereunder except to the extent Lessee is materially prejudiced by such failure.

(ii) Lessee shall defend, and shall have the right to settle (subject to the consent of the Indemnified Parties, which consent shall not be unreasonably withheld), Claims by third parties that are payable or that are to be indemnified by Lessee under this Section 16.16(b). The Indemnified Parties shall reasonably cooperate with Lessee in the defense of Claims that Lessee defends, and Lessee shall reimburse the Indemnified Parties for out-of-pocket expenses incurred in cooperating at Lessee's request. The Indemnified Parties shall not settle such Claims defended by Lessee without Lessee's prior consent, which consent shall not be unreasonably withheld. The Indemnified Parties shall have the right to approve defense counsel selected by Lessee, which approval shall not be unreasonably withheld, and the right to participate fully in the defense of such Claims defended by Lessee at the Indemnified Parties' sole cost and expense. The Indemnified Parties shall have the right to defend and settle Claims without prejudice to any of their rights against Lessee under this Lease if Lessee declines or is unable to undertake the defense of a Claim within a reasonable time after Lessee's receipt of notice thereof.

(c) Lessee's obligations under this Section 16.16 shall survive the expiration or earlier termination of this Lease.

IN WITNESS WHEREOF, the parties hereto have entered into this Stadium Lease  
as of the date first set forth above.

APPROVED AS TO  
AVAILABILITY OF FUNDS:

  
Director of Finance

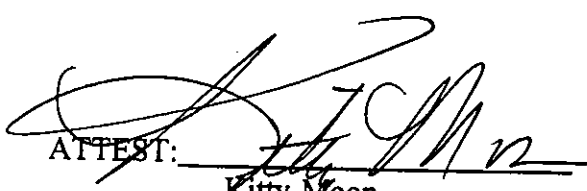
APPROVED AS TO  
FORM AND LEGALITY:

  
Metropolitan Attorney

**LESSOR**

THE SPORTS AUTHORITY OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY

ATTEST:

  
Kitty Moon  
Vice Chair

By:

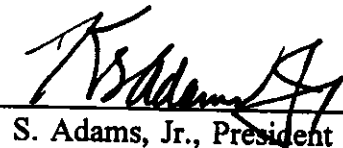
  
Richard Lodge, Chair

**LESSEE**

CUMBERLAND STADIUM, L.P.

By: Cumberland Stadium Management, Inc.,  
General Partner

By:

  
K. S. Adams, Jr., President

STATE OF TENNESSEE

SS.

COUNTY OF DAVIDSON

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Richard Lodge and Kitty Moon, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged themselves to be Chair and Vice Chair, respectively, of THE SPORTS AUTHORITY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, the within named bargainor, a corporation, and that they executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by themselves as Chair and Vice Chair, respectively.

Witness my hand, at office, this 14<sup>th</sup> day of May, 1996.

Linda L. Wakemeyer  
Notary Public

My Commission Expires:

3/24/99

STATE OF TEXAS

SS.

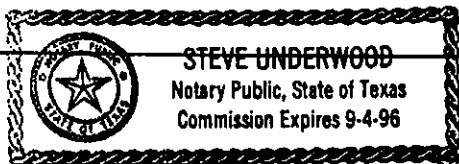
COUNTY OF HARRIS

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared K. S. Adams, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged himself to be the President of Cumberland Stadium Management, Inc., in its capacity as the general partner of CUMBERLAND STADIUM, L.P., the within named bargainor, a limited partnership, and that he executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by the general partner in such capacity by himself as President of the general partner.

Witness my hand, at office, this 14<sup>th</sup> day of May, 1996.

Steve Underwood  
Notary Public

My Commission Expires:



100AAB47  
14055814

Stadium Lease  
Page 44

SCHEDULE 5.5(A)(II)  
TO  
STADIUM LEASE

The opinions of counsel to be delivered upon the execution and delivery of Amendment No. 1 to Development Agreement will be in form and substance substantially equivalent to the opinions delivered by counsel to the respective parties to the Development Agreement at the time of the execution and delivery of the Lease; provided, however, that such opinions will address only Amendment No. 1 to Development Agreement and not the Development Agreement, the Stadium Lease, the Guaranty or the Team Contract.



## ANNEX I

### Defined Terms

**"Additional Adjustment Amount"** shall mean, as of any date of determination, (a) if the Reference Adjustment Amount is less than \$13.8 million, (i) an amount equal to the annual principal and interest payment that would be required to satisfy loan payments on a loan having the following terms: a principal amount equal to the Reference Adjustment Amount, simple interest accruing annually at a rate of 6% and a straight-line amortization of such principal amount over a 30 year term plus (ii) with respect to each Lump Sum Payment, an amount equal to the annual principal and interest payment that would be required to satisfy loan payments on a loan having the following terms: a principal amount equal to the Lump Sum Amount, simple interest accruing annually at a rate of 6% and a straight-line amortization of such principal amount over a 30 year term, or (b) if the sum of the Reference Adjustment Amount and all Lump Sum Payments exceeds \$13.8 million, an amount equal to \$1 million. If the Reference Adjustment Amount is \$0 and there have been no Lump Sum Payments, the Additional Adjustment Amount shall be \$0.

**"Additional Rent"** shall mean the payments by Lessee to cover the indebtedness referred to in Section 7.4(a).

**"Advertising Rights"** - Section 10.3.

**"Affiliate"** shall mean, with respect to any Person, any Person that, directly or indirectly, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") as used in the preceding sentence means the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

**"Amendment No. 1 to Development Agreement"** shall mean Amendment No. 1 to Development Agreement by and among the Metropolitan Government, Lessor, the NFL Team Entity and Lessee in the form executed by Lessor, the NFL Team Entity and Lessee and delivered to the Clerk of the Metropolitan County Council of the Metropolitan Government on May 14, 1996, as such agreement may be amended with the consent of each entity named as a party thereto prior to its execution and delivery.

**"Annual Capital Fund Deposit"** shall mean a deposit to be made by Lessor prior to the beginning of each Lease Year (other than the first Lease Year) in an amount equal to \$1,000,000.

**"Annual Stadium Equipment Amount"** shall mean, for any Lease Year, the product of \$275,000 times the Factor for such Lease Year.

**"Applicable Law"** shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination,

award, permit, license, authorization, directive, requirement or decision of or agreement with or by Governmental Authorities.

**"Architect"** shall have the meaning given such term in the Development Agreement.

**"Base Rent"** - Section 4.2.

**"Books and Records"** - Section 6.1(o).

**"Broadcast Rights"** - Section 10.4.

**"Capital Project"** shall mean (a) any single addition, alteration, demolition, improvement or Refurbishing of or to Stadium Equipment the cost of which (i) is classified as a capital expense by generally accepted accounting principles because, by way of illustration and not of limitation, it increases the then useful life or future service potential of the asset in question or provides a replacement for such asset and (ii) is \$1,500 or more, (b) any single addition, alteration, demolition, improvement or Refurbishing of or to any property constituting part of the Facilities or any portion thereof (other than the Stadium Equipment) the cost or expense of which (i) is classified as a capital expense by generally accepted accounting principles because, by way of illustration and not of limitation, it increases the then useful life or future service potential of the asset in question or provides a replacement for such asset and (ii) is \$1,500 or more, (c) any single addition, alteration, demolition, improvement, or Refurbishing of or to the Facilities or any portion thereof (other than the Stadium Equipment) that has a cost of \$10,000 or more, and (d) any series of additions, alterations, demolitions, improvements, or Refurbishings of or to the Facilities or any part thereof (other than the Stadium Equipment) that (i) under ordinary and customary business practices would be clearly viewed as being a single project, (ii) under ordinary and customary business practices would be effectuated by entering into a single contract with a contractor or other applicable Person, and (iii) has a cost of \$10,000 or more. The \$1,500 and \$10,000 figures referred to in this definition shall be adjusted on the first day of each Lease Year by multiplying \$1,500 and \$10,000, as applicable, by the Factor for such Lease Year. Notwithstanding the foregoing, the doming of the Stadium shall not be a "Capital Project."

**"Capital Project Expenses"** shall mean all expenses (other than Improved Item Expenses) incurred with respect to a Capital Project that are required to be made in order to cause all or any part of the Facilities to be in First Class Condition.

**"Capital Fund"** - Section 7.3.

**"Casualty"** shall mean any fire, storm, earthquake, tornado, flood or natural disaster or other sudden, unexpected or unusual cause.

**"Casualty Expenses"** shall mean all costs and expenses required to be borne by Lessor pursuant to Article 8.

**"Civic Events"** - Section 3.2.

**"Civic Event Revenues"** shall mean all revenues (other than Novelty and Regular Revenues) directly attributable to a Civic Event that would not have been generated but for such Civic Event, net of any incremental costs incurred by Lessee in connection with such Civic Event (including all of Lessee's costs as operator that are attributable to such Civic Event), determined under any reasonable methodology proposed by Lessee and approved by Lessor, which approval will not be unreasonably withheld; provided that no part of the revenues payable to Lessee in a lump sum for its Advertising Rights, Broadcast Rights and other rights over a period of time or otherwise not payable based upon the specific number of people attending all events at the Facilities shall be Civic Event Revenues.

**"Civic Use"** shall mean the use of the Facilities or any part thereof for (a) an event that is not reasonably likely nor intended in good faith to result in the sponsor of such event recognizing a profit after taking into account the costs therefor or (b) an event conducted or sponsored on a for-profit basis if such for-profit event is sponsored by or on behalf of a recognized nonprofit organization and, to the extent such event contemplates the use of performers, if the performers and Persons affiliated with them, including Affiliates of such performers and promoters or other Persons with contractual relationships with the performers and their Affiliates, do not receive any monies other than their actual, out-of-pocket costs incurred in connection therewith.

**"Claims"** shall mean demands, claims, suits, actions, proceedings or investigations brought against any Person by an unrelated or unaffiliated Person.

**"Comparable Facilities"** shall mean first-class sporting and entertainment stadiums that are (a) comparable to the Facilities, (b) of similar age (*i.e.*, completed within ten years before or after the Substantial Completion Date) to that of the Facilities and (c) located in major metropolitan areas of the United States, including other football stadiums in which NFL Games are played; provided that the following stadiums shall be deemed to be Comparable Facilities: Carolinas Stadium in Charlotte; Jacksonville Stadium in Jacksonville; Joe Robbie Stadium in the Miami area; Coors Field in Denver; Jacobs Field in Cleveland; The Ballpark at Arlington in Arlington; Oriole Park at Camden Yards in Baltimore; Comiskey Park in Chicago; Olympic Stadium in Atlanta; and BancOne Stadium in Phoenix.

**"Condemnation Award Account"** - Section 12.2(b).

**"Condemnation Expenses"** shall mean all costs and expenses required to be borne by Lessor pursuant to Section 12.2.

**"Damaged Facilities"** - Section 8.1.

**"Damages"** shall mean losses, penalties, fines, assessments, liabilities, judgments, damages, costs and expenses, including reasonable fees and expenses of counsel.

**"Default Rate"** shall mean a rate per annum equal to the lesser of (a) a varying rate per annum that is equal to four percent per annum over the interest rate quoted from time to time by NationsBank of Tennessee, N.A. or its successor as its prime commercial or similar reference

rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (b) the maximum nonusurious rate permitted by Applicable Law, with adjustments in that varying rate to be made on the same date as any change in that rate.

**"Development Agreement"** - Recitals.

**"Development Tract"** - Section 7.4(b).

**"Distinct Lessee Voluntary Improvement"** shall mean any Voluntary Improvement recommended by Lessee under Section 7.4 that is detached from the Stadium or that is otherwise not within the footprint or interior of the Stadium.

**"Escrow Agent"** shall mean the escrow agent selected by Lessor from a list of banks or other financial institutions doing business in the State that is approved by Lessor and Lessee.

**"Excluded Revenues"** shall mean (a) the PSL Revenues, (b) the TSU Revenues, (c) rent payable by TSU to Lessor pursuant to the TSU Agreement, (d) the revenues to which the NFL Team Entity is entitled to pursuant to the Team Contract, (e) the Civic Event Revenues, (f) the revenues to which third Persons are entitled pursuant to agreements between Lessee and such third Persons, and (g) revenues generated by Lessor's use of the Lessor Parking Area in accordance with Section 3.7, provided that this clause (g) shall not include revenues from the use of the Lessor Parking Area with respect to Lessee Events.

**"Exclusive Dates"** - Section 3.1(a).

**"Exclusive Period"** - Section 5.7.

**"Facilities"** shall mean the Stadium Site and all improvements now or hereafter located thereon, including the Stadium, parking facilities, and all improvements, additions, alterations, fixtures, equipment and installations constructed, provided or added thereto at any time, excluding, however, personal property that is owned by Lessee or its invitees that may from time to time be brought onto the Stadium Site.

**"Factor"** shall mean, for the first Lease Year, 1 and for each Lease Year thereafter (determined on the first day of each Lease Year), the number determined by the following formula where "n" equals the number of the Lease Year in question (*i.e.*, "n" for the second Lease Year shall be 2, for the third Lease Year 3 and so on for the remainder of the Term):

$$(1.04)^n$$

**"First Class Condition"** shall mean the condition satisfying each of the following: (a) being in compliance with Applicable Law, (b) being in good condition and repair, normal wear and tear excepted, and (c) having the level of improvements and new technology from time to time found at a reasonable number of Comparable Facilities, provided that, with respect to improvements and new technology that perform a completely new function rather than being a replacement, upgrade or enhancement of then existing portions of the Facilities, this clause (c)

shall be limited to the level of improvements and new technology that at the time in question have been successfully implemented in a majority of Comparable Facilities.

**"First Extension Option"** - Section 5.2.

**"First Extension Period"** - Section 5.2.

**"Force Majeure"** shall mean any of the following events: strikes, lockouts, labor disputes, embargoes, flood, earthquake, storm, dust storm, lightning, fire, epidemic, acts of God, war, national emergency, civil disturbance or disobedience, riot, sabotage, terrorism, threats of sabotage or terrorism, restraint by court order or order of public authority, and similar occurrences beyond the reasonable control of the party in question, that make compliance with any of its material obligations under this Lease in a timely manner impracticable or impossible.

**"Governmental Authority"** shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence.

**"Governments"** shall mean the Metropolitan Government and the State.

**"Guaranty"** shall mean the Guaranty provided by Houston Oilers, Inc. pursuant to the Development Agreement.

**"Improved Item"** shall mean any item of property that is an improvement, upgrade or enhancement of and a replacement for an item that (a) is then part of the Facilities, (b) is then in good condition and repair, normal wear and tear excepted, and in compliance with Applicable Law and (c) has not then reached the end of its reasonable useful life, which replacement Lessee shall have elected to cause to occur by so notifying Lessor in advance in a manner that is reasonable under all of the circumstances.

**"Improved Item Expenses"** shall mean the initial purchase price of any Improved Item.

**"Indemnified Parties"** - Section 16.16(b).

**"Initial Term"** - Section 5.1.

**"Lease"** - Introductory paragraph.

**"Lease Year"** shall mean the 12-month period beginning on the Substantial Completion Date (except that, if the Substantial Completion Date is not the first day of a month, the first Lease Year shall equal 12 months plus the remaining portion of the month in which the Substantial Completion Date occurs) and each successive 12-month period thereafter during the Operating Period, provided that, since the last Lease Year ends with the termination of the Operating Period, it may cover a period of less than 12 months.

**"Lessee" - Introductory paragraph.**

**"Lessee Default"** shall mean the occurrence of either or both of the following events: (a) failure by Lessee at any time to pay, when due, any sums payable by Lessee hereunder within 30 days after notice of such failure is given to Lessee by Lessor; and (b) failure by Lessee to observe or perform any other covenant, agreement, condition or provision of this Lease, if such failure shall continue for more than 60 days after notice of such failure is given to Lessee by Lessor, provided that there shall not be a Lessee Default under this clause (b) with respect to matters than cannot be reasonably cured within such 60 day period so long as within such 60 day period Lessee has commenced such cure and diligently proceeds in a reasonable manner thereafter to complete the same.

**"Lessee Development Tract" - Section 7.4(c).**

**"Lessee Events"** shall mean the Team Home Games and the other events that Lessee is permitted to have take place at the Facilities pursuant to Article 3.

**"Lessee New Tract" - Section 7.4(c).**

**"Lessee Notice Event"** shall mean the occurrence of an event that, with the giving of notice or passage of time, or both, would constitute a Lessee Default.

**"Lessee Policy" - Section 14.2.**

**"Lessee Projects" - Section 7.5.**

**"Lessee's Share of Improved Item Expenses"** shall mean, with respect to any Improved Item, the Improved Item Expenses thereof minus Lessor's Share of Improved Item Expenses.

**"Lessee Voluntary Improvement Expenses"** shall mean (a) all expenses to design, construct and install initially a Voluntary Improvement recommended by Lessee in accordance with Section 7.4 and (b) all Capital Project Expenses incurred thereafter with respect to any such Voluntary Improvement except that this clause (b) shall have no application with respect to any Voluntary Improvement that, if not made, would have required the undertaking of a similar Capital Project by Lessor upon the expiration of the useful life of the portion of the Facilities to which such Voluntary Improvement was made, so that an example (which is set forth for illustration only) of a Lessee Voluntary Improvement that clause (b) would not be applicable to would be a Lessee Voluntary Improvement that is the replacement of the seating within the Stadium prior to the useful life thereof.

**"Lessor" - Introductory paragraph.**

**"Lessor Default"** shall mean the occurrence of either or both of the following events: (a) failure by Lessor at any time to pay, when due, any sums payable by Lessor hereunder within 30 days after notice of such failure is given to Lessor by Lessee; and (b) failure by Lessor to observe or perform any other covenant, agreement, condition or provision of this Lease, if such

failure shall continue for more than 60 days after notice of such failure is given to Lessor by Lessee, provided that there shall not be a Lessor Default under this clause (b) with respect to matters than cannot be reasonably cured within such 60 day period so long as within such 60 day period Lessor has commenced such cure and diligently proceeds in a reasonable manner thereafter to complete the same.

**"Lessor Events"** shall mean TSU Home Games and Civic Events.

**"Lessor Notice Event"** shall mean the occurrence of an event that, with the giving of notice or passage of time, or both, would constitute a Lessor Default.

**"Lessor Operating Expenses"** - Section 7.8(a).

**"Lessor Operating Expense Limit"** - Section 7.8(a).

**"Lessor Parking Area"** - Section 3.7.

**"Lessor Parking Expenses"** shall mean all expenses (operating and capital) required to be borne by Lessor in accordance with Section 3.7.

**"Lessor Parking Use"** - Section 14.1(c).

**"Lessor Projects"** - Section 7.5.

**"Lessor Policy"** - Section 14.1.

**"Lessor Voluntary Improvement Expenses"** shall mean all expenses of a Voluntary Improvement recommended by Lessor in accordance with Section 7.4.

**"Lessor's Share of Improved Item Expenses"** shall mean, with respect to any Improved Item, the product of the Improved Item Expenses thereof times a fraction, the numerator of which is the number of years that the item replaced by the Improved Item has been in service at the Facilities and the denominator of which is the numerator plus the number of then remaining years in the reasonable useful life of such item.

**"Lien"** shall mean any lien, statutory lien, pledge, condemnation award, claim, restriction, charge, security interest, mortgage, deed of trust, title defect, lease, tenancy, license, covenant, right of way, easement, encroachment, right of refusal or encumbrance of any nature whatsoever.

**"Lump Sum Payment"** shall mean an amount paid by Lessee to Lessor from time to time for the purpose of reducing the Base Rent plus the present value (calculated using a discount rate of 6% per annum) of any amount or amounts that Lessee agrees to make to Lessor over time for such purpose.

**"Metropolitan Government"** - Recitals.

**"Net PSL Funds"** shall mean the PSL Revenues net of sales taxes and net of the actual out-of-pocket expenses (not to exceed \$1.75 million) incurred by the Metropolitan Government or Lessor in connection with the marketing of the PSLs.

**"New Tract"** - Section 7.4(b).

**"NFL"** shall mean the National Football League (of which the Team is now a member) and any successor thereto.

**"NFL Game"** shall mean any pre-season, regular season, post-season, championship, Super Bowl or other professional football game fielded by teams that are NFL franchisees.

**"NFL Rules and Regulations"** shall mean the constitution, bylaws, rules, regulations and practices of the NFL in effect at the time in question.

**"NFL Schedule"** shall mean the schedule of NFL Games for the NFL season in question that is officially promulgated by the NFL.

**"NFL Team Entity"** shall mean the entity that owns the NFL franchise currently known as Houston Oilers, which entity is now Houston Oilers, Inc.

**"Non-Stadium Games Season"** shall mean an NFL season (beginning with and including the 1998 NFL season) during which 50% or more of the Possible Stadium Games are not played in the Facilities because the Substantial Completion Date is delayed past August 1, 1998 for any reason whatsoever.

**"Novelty and Regular Revenues"** shall mean the revenues generated with respect to any Civic Event or TSU Game, as applicable, from (a) the sale of novelties, gifts and similar items from the stock of such items on hand at the Facilities, rather than from the sale of such items that are related to the particular Lessor Event and are brought to the Facilities or otherwise stored at the Facilities for sale during such Lessor Event, and (b) restaurants and other facilities that are open for business on a regular basis and thus would have been open on the date of the Lessor Event even if the Lessor Event had not occurred.

**"Obligations"** - Section 16.16(a).

**"Offset Provisions"** - Section 16.14.

**"Oilers Option"** shall have the meaning given such term in the Development Agreement.

**"Oilers Option Adjustment Amount"** shall mean, if the Oilers Option is exercised in accordance with the terms of the Development Agreement, the product of \$1 million times a fraction, (a) the numerator of which equals the amount by which the Project Costs are reduced as a result of the exercise of the Oilers Option and (b) the denominator of which equals \$13.8 million; provided that, if the amount of such reduction referred to in the numerator is \$13.8 million or more, the Oilers Option Adjustment Amount shall be \$1 million.



**"Operating Expenses"** shall mean (a) all expenses, to the extent classified as "operating expenses" by generally accepted accounting principles, and all maintenance expenses (such as routine painting and the cost of maintenance contracts) that are required to be made in order to comply with Section 6.1(a) or to cause the Facilities to be in compliance with Applicable Law, (b) all expenses that would have been Capital Project Expenses but for the application of the \$1,500 threshold set forth clause (a)(ii) or (b)(ii) of the definition of "Capital Project" (as adjusted as set forth therein) and (c) all costs and expenses with respect to the maintenance, repair and replacement of the Playing Field (other than by reason of damage caused in connection with a Lessor Event); provided that "Operating Expenses" shall not include any Capital Project Expenses, any Lessor Parking Expenses or any Improved Item Expenses.

**"Operating Period"** shall mean the period beginning on the Substantial Completion Date and ending on the earlier of the last day of the Term or the date this Lease is terminated in accordance with the termination rights granted in this Lease.

**"Oversight Committee"** shall mean a three-person committee comprised of the Director of Finance of the Metropolitan Government, a representative selected by Lessor and a representative selected by Lessee.

**"Parking Deck"** - Section 7.4(b).

**"Permitted Encumbrances"** shall mean (a) utility, access or other easements and rights of way of record, (b) laws regulating the use or enjoyment of the Stadium Site or the Facilities, and (c) any other matters approved by the Team Parties in writing; provided that none of the matters described in clauses (a) or (b), either individually or in the aggregate, unreasonably or materially interfere with or impair the use or operation of the Stadium Site, the Facilities or any part thereof.

**"Permitted Investments"** shall mean any investments permitted by the investment policies of the Metropolitan Government as of the date of this Lease, and any changes therein that do materially lessen the restrictive and protective nature of such policies.

**"Permitted Use"** shall mean, with respect to any tract of land on the Stadium Site, so long as not prohibited by Applicable Law, the use thereof for a sports museum, Hall of Fame, or sports exhibition or entertainment center.

**"Person"** shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body, government or other entity.

**"Plans and Specifications"** shall have the meaning given such term in the Development Agreement.

**"Playing Field"** shall mean the area, within the Stadium, designed for the playing of football games, including the playing area, all sideline areas and all other surfaces immediately surrounding the playing area.

**"Possible Stadium Game"** shall mean each pre-season football game of the Team, each regular season football game of the Team, and each "wildcard" and divisional playoff game, conference championship football game or other football game in which the Team is a participating team (excluding a Super Bowl game) as to which the Team shall have the right or the obligation to furnish the home playing site or arena under NFL Rules and Regulations.

**"Practice Facility"** shall mean practice fields and associated locker rooms and maintenance and training facilities for the Team that will be separate from the stadium, but located on the Stadium Site, as more particularly described in the Plans and Specifications.

**"Presentation Certificate"** - Section 7.6(a).

**"Principal Architect"** shall mean Hellmuth, Obata & Kassabaum, Inc. or such other Architect as may serve as the principal Architect with respect to the Project.

**"Project"** shall have the meaning given such term in the Development Agreement.

**"Project Costs"** shall have the meaning given such term in the Development Agreement.

**"PSL"** shall mean a permanent seat license permitting the holder thereof to purchase tickets to Team Home Games for the type of seat in the Facilities described in such license.

**"PSL Agreements"** shall have the meaning given such term in the Development Agreement.

**"PSL Revenues"** shall mean the revenues (resulting from the sale of PSLs before the PSL Revenues Determination Date) that, as of the PSL Revenues Collection Date, have been received by Lessor and to which Lessor is entitled pursuant to the terms of the Development Agreement and any other revenues from the sale of PSLs by Lessor, on mutually agreed upon terms and conditions, relating to any general seating expansion for which Lessor may be obligated to undertake pursuant to this Lease.

**"PSL Revenues Collection Date"** shall mean the (a) fourth day following the PSL Revenues Determination Date if the PSL Revenues Determination Date is June 1, 1998 plus the Special Extension Period or (b) the date the Net PSL Funds equal \$71.5 million if such date is the PSL Revenues Determination Date.

**"PSL Revenues Determination Date"** shall mean the earlier of (a) June 1, 1998 plus the Special Extension Period and (b) the date the Net PSL Funds equal \$71.5 million.

**"Public Debt"** shall mean the notes, bonds, or other indebtedness incurred or to be incurred from time to time prior to or on or about the Substantial Completion Date to finance the Project Costs and any refinancings or refundings of such notes, bonds or indebtedness.

**"Reference Adjustment Amount"** shall mean the sum of the following: (i) the positive or negative amount equal to the Net PSL Funds minus \$71.5 million, (ii) the positive or negative

amount equal to \$20 million minus the amount, if any, charged by the NFL and paid by Lessor in connection with securing the NFL's approval to move the Team and the related NFL franchise from Houston to Nashville and (iii) any additional revenues identified or made available to the Metropolitan Government for the Project that were not contemplated in connection with the Stadium and Relocation Agreement, dated November 15, 1995; provided that in no case shall the Reference Adjustment Amount be less than \$0.

**"Refurbishing"** shall mean any renovation, repair, replacement or refurbishing (as contrasted with new, original or additional construction, erection or improvement) that is not required as a result of any Casualty.

**"Reimbursable Tax"** shall mean (a) any real estate or personal property or similar ad valorem Tax imposed, assessed or levied on or with respect to Lessee's leasehold estate or Lessee's other rights and interests created by this Lease, and (b) any Targeted Tax.

**"Reimbursement Fee"** shall mean those amounts that Lessor is required to pay to the NFL Team Entity pursuant to Section 9.3(a) of the Development Agreement.

**"Reimbursement Request"** - Section 7.6(a).

**"Rent"** shall mean Base Rent and Additional Rent.

**"Reserved Date"** shall mean a date that is reserved pursuant to Article 3 as a date for a Lessor Event or a Lessee Event.

**"Reserved Areas"** shall mean (a) the gift or novelty shops located in the Facilities, (b) ticket offices, (c) concession areas, restaurants and similar areas, and (d) the following areas of the Facilities: (i) enclosed areas of the Facilities suitable for private parties, receptions and other similar functions unless otherwise agreed to by the parties (but this clause (i) shall not include the club seat lounge area), (ii) the parking area set aside for the Team Parties, (iii) the luxury suites and related areas, and (iv) the portions of the Facilities that are used solely by Lessee, the NFL Team Entity and the Team (as referred to in the definition of "Special Capital Project"). It is understood and agreed that the foregoing terms shall be deemed to include appurtenances and rights of access to the extent reasonably necessary to utilize such areas as herein permitted.

**"Second Extension Option"** - Section 5.2.

**"Second Extension Period"** - Section 5.2.

**"Signage"** shall mean all signage (permanent or temporary) in or on the Facilities, including, without limitation, scoreboards, Jumbotron or other replay screens, banners, displays, time clocks, message centers, advertisements, signs and marquee signs.

**"Special Account"** - Section 8.2.

**"Special Capital Project"** shall mean any addition, alteration, demolition, improvement or Refurbishing solely to areas in the Stadium dedicated to the exclusive use of the luxury suite holders and their invitees or portions of the Facilities that are used solely by Lessee, the NFL Team Entity and the Team (such as Team locker rooms and related areas used exclusively by the Team, office space used exclusively by the Team Parties, including, without limitation, the offices for the coaching staff, the cafeteria, auditorium and meeting and conference rooms dedicated for the exclusive use by the Team Parties, and the Practice Facility), and not by other users of the Facilities, other than an addition, alteration, demolition, improvement, or Refurbishing that relates to aspects of (a) the structural components of the luxury suites and other exclusive areas described above in this definition (including, without limitation, the structural aspects of foundations, floors, walls, roofs and ceilings) or (b) systems or components of the luxury suites and other exclusive areas described above in this definition that are part of or affect systems or components of both such suites and other areas and other portions of the Facilities (including, without limitation, HVAC, water (potable and irrigation), drainage (sanitary and storm), natural gas, fire protection, telephone and data, fire alarm, distributed sound, beverage distribution, electrical (power and lighting), plumbing, sprinkler and security systems).

**"Special Capital Project Expenses"** shall mean all expenses of a Special Capital Project.

**"Special Extension Period"** shall mean the number of days equal to the number of days in the period from May 21, 1996 to the date on which the Sports Authority and the Metropolitan Government are notified by Cumberland or the NFL that the NFL's approval of the relocation of the Team to Nashville, Tennessee is no longer subject to being withdrawn, voided or otherwise made of no force or effect by the NFL as a result of the enactment of legislation adopted by the 104th Congress of the United States of America, plus ten additional days.

**"Special Use"** shall mean the use of the Facilities or any part thereof for an event (a) at which the performers are compensated at rates or in amounts not more than the greater of (i) 75% of the rates or amounts that Lessee or any third party promoter would have to pay to engage such performers for such event, or (ii) union scale, (b) that entitles Lessor to receive at least 50% of the profit generated therefrom and (c) from which the performers, their family members (and trusts and other entities benefitting same) and their respective Affiliates are not entitled to compensation, directly or indirectly (i.e., through Broadcast Rights, Advertising Rights, royalties and similar payment arrangements) in excess of 75% of the compensation and amounts customarily received by such performers for similar arrangements and from which Lessor is entitled to receive at least 50% of the profit generated therefrom.

**"Stadium"** shall mean the stadium to be constructed on the Stadium Site as a part of the Facilities pursuant to the Development Agreement, as contrasted from other parts of the Facilities, such as the parking areas and the Practice Facility.

**"Stadium Equipment"** shall mean any personal property of Lessor constituting a part of the Facilities that is not bolted down, fastened or otherwise in any way attached to any other portion of the Facilities (including, by way of illustration only, chairs, tables, sofas, tractors and mowers); provided that the following equipment shall not be considered Stadium Equipment but rather shall be deemed to be part of the remainder of the Facilities: (a) electronic, video, sound

and other equipment used to operate and achieve the range of performance of scoreboards and other display boards and (b) the Playing Field tarpaulin to be included in the original budget of the Facilities (which Lessee anticipates will cost approximately \$100,000 at the time this Lease is entered into) and replacements thereof of a similar type.

**"Stadium Equipment Availability Amount"** shall mean, as of any determination date, an amount equal to (a) the sum of the Annual Stadium Equipment Amounts for each of the Lease Years that has occurred as of such determination date (including the Lease Year in which such determination date occurs) minus (b) the cumulative amount of all reimbursement payments made by Lessor to Lessee under Section 7.6 from the commencement of the Operating Period to such determination date.

**"Stadium Equipment Expenses"** shall mean all Capital Project Expenses for Capital Projects described in clause (a) of the definition of "Capital Project."

**"Stadium Site"** shall mean the real property described in Annex II.

**"State"** shall mean the State of Tennessee.

**"State Interest"** shall have the meaning given such term in the Development Agreement.

**"Substantial Completion"** shall have the meaning given such term in the Development Agreement.

**"Substantial Completion Date"** shall mean the date on which Substantial Completion occurs.

**"Targeted Tax"** shall mean any new or additional Tax or increase in any Tax not in effect as of November 15, 1995, including, without limitation, any such Tax passed in lieu of any real estate or personal property or similar ad valorem Taxes applicable to this Lease or the Team Contract, that is either (a) by its terms not of general application but rather directed at the Team Parties or the Team's spectators or the activities of the Facilities or the revenues derived therefrom, or (b) by its terms of general application, but in operation applicable solely to the Team Parties or the Team's spectators or the activities of the Facilities or the revenues derived therefrom, or to a small class of taxpayers, activities or revenue flows of which the Team Parties or the Team's spectators or the activities of the Facilities or the revenues derived therefrom comprise at least 25%.

**"Targeted Ticket Tax"** - Section 9.2.

**"Tax"** shall mean any tax, assessment, levy or similar charge.

**"Team"** shall mean the NFL team owned by the NFL Team Entity pursuant to the rights granted to it as an NFL franchisee, currently named Houston Oilers.

**"Team Contract"** shall mean that certain Team Contract of even date herewith between Lessee and the NFL Team Entity.

**"Team Home Game"** shall mean each NFL pre-season football game of the Team, each NFL regular season football game of the Team, and each NFL "wildcard" and divisional playoff game, conference championship football game or other NFL professional football game between the Team and any other team fielded by an NFL franchisee (excluding a Super Bowl game) that is to be played at the Facilities.

**"Team Home Game Date"** shall mean the date scheduled, approved or changed by the NFL on which any Team Home Game is to be played.

**"Team Parties"** shall mean Lessee and the NFL Team Entity.

**"Term"** - Section 5.3.

**"TSU"** - Section 3.3(a).

**"TSU Agreement"** - Section 3.3(a).

**"TSU Home Game"** shall mean any TSU football game (including any "Classic" game that TSU plays in) that is to be played at the Facilities pursuant to the TSU Agreement.

**"TSU Home Game Date"** shall mean the date on which any TSU Home Game is scheduled to be played.

**"TSU Revenues"** shall mean all revenues (other than Novelty and Regular Revenues) directly attributable to a TSU Home Game that would not have been generated but for such TSU Home Game, net of any incremental costs incurred by Lessee in connection with such TSU Home Game (including all of Lessee's costs as operator that are attributable to such TSU Home Game), determined under any reasonable methodology proposed by Lessee and approved by Lessor, which approval will not be unreasonably withheld; provided that no part of the revenues payable to Lessee in a lump sum for its Advertising Rights, Broadcast Rights and other rights over a period of time or otherwise not payable based upon the specific number of people attending all events at the Facilities shall be TSU Revenues.

**"Voluntary Improvements"** - Section 7.4(a).

## ANNEX II

### Stadium Site

An approximately 105 acre tract of land located on the bank of the Cumberland River in downtown Nashville, Tennessee, in the area bounded by the Victory Memorial Bridge, the Shelby Street Bridge, the Cumberland River, and Interstate 65, the precise boundaries of which shall be determined by agreement of the parties pursuant to the Development Agreement.

ANNEX III

This Instrument Prepared By:  
G. Scott Rayson  
Waller Lansden Dortch & Davis  
511 Union Street, Suite 2100  
Nashville, Tennessee 37219  
(615) 244-6380

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 1996, by and between The Sports Authority of The Metropolitan Government of Nashville and Davidson County, a Tennessee public, nonprofit corporation created pursuant to the Tennessee Sports Authority Act of 1993 ("*Lessor*"), and Cumberland Stadium, L.P., a Tennessee limited partnership ("*Lessee*").

WITNESSETH:

The Lessor, for and in consideration of the rents to be paid and the other covenants and agreements to be kept and performed by Lessee, does hereby lease to Lessee, and Lessee does hereby take and lease from Lessor, all that certain tract or parcel of land, together with all appurtenances thereto situated, lying and being in Davidson County, Tennessee, and being bounded and described as set forth in Exhibit A attached hereto and made a part of this Memorandum (the "*Facilities*").

TO HAVE AND TO HOLD the same subject to all the provisions and conditions contained in that certain Stadium Lease dated May 14, 1996 between Lessor and Lessee (the "*Lease*").

1. The rate of rental and all terms of Lessee's occupancy of the Facilities are set forth in the Lease.
2. The term of the Lease commenced on March 14, 1996, and shall end at midnight on the date 90 days after the last NFL Game played during the 2028 NFL season. The Lease provides Lessee with options to extend the term for at least a ten year extension period.
3. The sole purpose of this instrument is to give notice of the Lease and all of its terms, covenants and conditions to the same extent as if the same were fully set forth herein. In the event of any inconsistency between the terms of this Memorandum and the Lease, the terms of the Lease shall govern and control.



**IN WITNESS WHEREOF**, the parties have hereunto set their hands and seals as of the day and date first above written.

**LESSOR:**

**THE SPORTS AUTHORITY OF THE  
METROPOLITAN GOVERNMENT OF  
NASHVILLE AND DAVIDSON COUNTY**

By: \_\_\_\_\_

Richard Lodge  
Chair

**LESSEE:**

**CUMBERLAND STADIUM, L.P.**

By: Cumberland Stadium Management, Inc.,  
its General Partner

By: \_\_\_\_\_

K. S. Adams, Jr.  
President

STATE OF TENNESSEE

SS.

COUNTY OF DAVIDSON

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared Richard Lodge, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged himself to be the Chair of THE SPORTS AUTHORITY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, the within named bargainor, a corporation, and that he executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Chair.

Witness my hand, at office, this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Notary Public

My Commission Expires:

STATE OF TEXAS

SS.

COUNTY OF HARRIS

Before me, a Notary Public in and for said State and County, duly commissioned and qualified, personally appeared K.S. Adams, Jr., with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath acknowledged himself to be the President of Cumberland Stadium Management, Inc., in its capacity as the general partner of CUMBERLAND STADIUM, L.P., the within named bargainor, a limited partnership, and that he executed the foregoing instrument for the purposes therein contained, by signing the name of the partnership by the general partner in such capacity by himself as President.

Witness my hand, at office, this \_\_\_\_ day of \_\_\_\_\_, 1996.

\_\_\_\_\_  
Notary Public

My Commission Expires: